2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Note verbale dated 17 May 2005 from the Permanent Representative of the Grand Duchy of Luxembourg to the United Nations addressed to the Secretary-General of the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

The Permanent Representative of the Grand Duchy of Luxembourg to the United Nations presents his compliments to the Secretary-General of the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons and has the honour to transmit herewith an extract of Common Position 2005/329/PESC of the Council of the European Union, of 25 April 2005, relating to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (see annex).*

* Council Common Position 2005/329/PESC of 25 April 2005 has been published in the *Official Journal of the European Union* and is circulated in English.

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Annex to the note verbale dated 17 May 2005 from the Permanent Representative of the Grand Duchy of Luxembourg to the United Nations addressed to the Secretary-General of the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

[Original: English]

COUNCIL COMMON POSITION 2005/329/PESC

of 25 April 2005

relating to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

(1) The European Union continues to regard the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) as the cornerstone of the global nuclear non-proliferation regime, the essential foundation for the pursuit of nuclear disarmament in accordance with Article VI of the NPT and an important element in the further development of nuclear energy applications for peaceful purposes.

(2) On 17 November 2003 the Council adopted Common Position 2003/805/CFSP on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery [1]. On 12 December 2003 the European Council adopted a Strategy against proliferation of Weapons of Mass Destruction.

(3) The United Nations Security Council unanimously adopted Resolution 1540 (2004), describing the proliferation of weapons of mass destruction and their means of delivery as a threat to international peace and security.

(4) The 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons with the task of examining the Treaty and the question of its extension adopted decisions on the indefinite extension of the Treaty on the Non-Proliferation of Nuclear Weapons, on principles and objectives for nuclear non proliferation and disarmament and on strengthening the review process for that Treaty and a resolution on the Middle East.

(5) On 13 April 2000 the Council adopted Common Position 2000/297/CFSP relating to the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons [2].

(6) The 2000 NPT Review Conference adopted a final document.

(7) The Preparatory Committee for the 2005 NPT Review Conference held three sessions, from 8 to 19 April 2002 in New York, 28 April to 9 May 2003 in Geneva and 26 April to 7 May 2004 in New York.

(8) On 29 April 1997 the Council adopted Joint Action 97/288/CFSP on the European Union's contribution to the promotion of transparency in nuclear-related export controls [3].

(9) On 17 May 2004 the Council adopted Joint Action 2004/495/CFSP on support for IAEA activities under its Nuclear Security Programme and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction [4].

(10) On 1 June 2004 the Council adopted a statement of support for the Proliferation Security Initiative on Weapons of Mass Destruction.

(11) The Additional Protocol to the Verification Agreement between the Non-Nuclear-Weapon States of the European Atomic Energy Community (EURATOM), EURATOM and the International Atomic Energy Agency (IAEA), the Additional Protocol to the Safeguards Agreement between France, EURATOM and the IAEA, and the Additional Protocol to the Safeguards Agreement between the United Kingdom, EURATOM and the IAEA have been signed and entered into force on 30 April 2004.

(12) In the light of the outcome of the 2000 Review Conference and of the discussions at the three sessions of the Preparatory Committee for the NPT 2005 Review Conference, and bearing in mind the current situation, it is appropriate to update and develop further the objectives set out in Common Position 2000/297/CFSP, and the initiatives carried out under its terms,

[1] OJ L 302, 20.11.2003, p. 34.
[2] OJ L 97, 19.4.2000, p. 1.
[3] OJ L 120, 12.5.1997, p. 1.
[4] OJ L 182, 19.5.2004, p. 46.

HAS ADOPTED THIS COMMON POSITION:

Article 1

The objective of the European Union shall be to strengthen the international nuclear non proliferation regime by promoting the successful outcome of the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

Article 2

For the purposes of the objective laid down in Article 1, the European Union shall:

(a) contribute to a structured and balanced review of the operation of the NPT at the 2005 Review Conference, including the implementation of undertakings of the States Parties under the said Treaty, as well as the identification of areas in which, and of means through which, further progress should be sought in future;

(b) help build a consensus on the basis of the framework established by the NPT by supporting the Decisions and the Resolution adopted at the 1995 Review and Extension Conference and the final document of the 2000 NPT Review Conference, and shall bear in mind the current situation and shall promote *inter alia* the following essential issues, including:

1. undertaking efforts to preserve the integrity of the NPT and strengthen its implementation;

2. recognising that the NPT is a unique and irreplaceable multilateral instrument for maintaining and reinforcing international peace, security and stability, in that it establishes a legal framework for preventing increased proliferation of nuclear weapons and for developing further a verification system guaranteeing that non-nuclear-weapons States use nuclear energy solely for peaceful purposes, and that it represents the essential foundation for the pursuit of nuclear disarmament in accordance with Article VI thereof;

3. working towards universal accession to the NPT;

4. stressing the absolute necessity of full compliance with all the provisions of the NPT by all States Parties;

5. calling on all States not party to the NPT to pledge commitments to non-proliferation and disarmament and calling on those States to become States Parties to the NPT as non nuclear weapon States.

6. recognising that serious nuclear proliferation events have occurred since the end of the 2000 Review Conference;

7. stressing the need to strengthen the role of the UN Security Council, as final arbiter, in order that it can take appropriate action in the event of non-compliance with NPT obligations, in keeping with the Statute of the International Atomic Energy Agency (IAEA), including the application of safeguards;

8. drawing attention to the potential implications for international peace and security of withdrawal from the NPT. Urging the adoption of measures to discourage withdrawal from the said Treaty;

9. calling for nuclear cooperation to be suspended where the IAEA is not able to provide adequate assurances that a State's nuclear programme is designed exclusively for peaceful purposes, until such time as the Agency is able to provide such assurances;

10. calling on all States in the region to make the Middle East into an effectively verifiable zone free of nuclear weapons and other weapons of mass destruction and their delivery systems, in keeping with the Resolution on the Middle East adopted at the 1995 Review and Extension Conference;

11. since security in Europe is linked to security in the Mediterranean, giving top priority to implementation of the nuclear non-proliferation regime in that region;

12. acknowledging the importance of nuclear-weapon-free zones for peace and security, on the basis of arrangements freely entered into between the States of the region concerned;

13. stressing the need to do everything possible to prevent the risk of nuclear terrorism, linked to possible terrorist access to nuclear weapons or materials that could be used in the manufacture of radiological dispersal devices and, in this context, stressing the need for compliance with obligations under Security Council Resolution 1540 (2004). Calling for tighter security for high activity radioactive sources. Supporting G8 and IAEA action in this regard;

14. recognising that, in the light of the increased threat of nuclear proliferation and terrorism, the Proliferation Security Initiative, the Global Threat Reduction Initiative and the G8 Global Partnership Initiative should be approved;

15. calling for universal accession to the Comprehensive Safeguards Agreements and Additional Protocols;

16. recognising that Comprehensive Safeguards Agreements and Additional Protocols have a deterrent effect on nuclear proliferation and form today's verification standard, and continuing to work for increased detectability of any violations of Treaty obligations;

17. working for recognition by the IAEA Board of Governors that the conclusion of a Comprehensive Safeguards Agreement and an Additional Protocol is today's verification standard;

18. highlighting the IAEA's unique role in verifying States' compliance with their nuclear Non-proliferation commitments and helping them, on request, to tighten up the security of nuclear materials and installations, and calling on States to support the Agency;

19. recognising the importance of appropriate effective export controls, in compliance with Security Council Resolution 1540 (2004) and in accordance with Article III.2 of the NPT;

20. implementing, at national level, effective export, transit, transhipment and re-export controls, including appropriate laws and regulations for that purpose;

21. enacting effective criminal sanctions to deter illegal export, transit, brokering, trafficking and related financing, in compliance with UNSC Resolution 1540 (2004);

22. urging the Zangger Committee and the Nuclear Suppliers Group to share their experience on export controls, so that all States can draw on the arrangements of the Zangger Committee and the Nuclear Suppliers Group (NSG) guidelines;

23. pointing up the need to strengthen the (NSG) Guidelines at an early date, to adapt them to new non-proliferation challenges;

24. calling on the States Parties to the Convention on the Physical Protection of Nuclear Material to work for rapid conclusion of an amended Convention;

25. recognising the right of States Parties to the NPT to nuclear energy for peaceful purposes, in accordance with Article IV thereof, with due regard for Articles I, II and III of the Treaty;

26. underlining the importance of continuing international cooperation in order to strengthen nuclear safety, safe waste management and radiological protection and calling upon States that have not yet done so to accede to all the relevant conventions as soon as possible and to implement fully the ensuing commitments;

27. noting that the States Parties to the NPT, may, pursuant to Article IV thereof, have resort to peaceful uses of nuclear energy, *inter alia* in the area of production of electricity, industry, health and agriculture;

28. urging the formulation of guarantees of access to nuclear fuel services, or to fuel itself, subject to appropriate conditions;

29. noting the report of the IAEA's expert group on multinational approaches to the nuclear fuel cycle and promoting an early start to its scrutiny by the IAEA;

30. stressing, while acknowledging the nuclear arms reductions which have taken place since the end of the cold war, the need for an overall reduction in nuclear arsenals in the pursuit of gradual, systematic nuclear disarmament under Article VI of the NPT and welcoming, in this context, the ratification of the Moscow Treaty by the Russian Federation and the United States of America in 2002, while stressing the need for more progress in reducing their arsenals;

31. stressing the need to implement the declarations made by the Presidents of Russia and America in 1991 and 1992 on unilateral reductions in their stocks of non-strategic nuclear weapons and calling on all States with non-strategic nuclear weapons to include them in their general arms control and disarmament processes, with a view to their reduction and elimination;

32. recognising application of the principle of irreversibility to guide all measures in the field of nuclear disarmament and arms control, as a contribution to the maintenance and reinforcement of international peace, security and stability, taking these conditions into account;

33. recognising the importance, from the point of view of nuclear disarmament, of the programmes for the destruction and elimination of nuclear weapons and the elimination of fissile material as defined under the G8 World Partnership;

34. pursuing efforts to secure transparency, as a voluntary Confidence Building Measure to support further progress in disarmament;

35. since the Comprehensive Nuclear Test Ban Treaty (CTBT) forms an essential part of the nuclear disarmament and non-proliferation regime and with a view to its entry into force as soon as possible, without conditions, calling on States, particularly those listed in Annex II, to sign and ratify the said Treaty without delay and without conditions and, pending the entry into force of the said Treaty, calling on all States to abide by a moratorium and to refrain from any action contrary to the obligations and provisions of the said Treaty. Highlighting the importance of the work of the CTBT Organisation Preparatory Commission and actively supporting the work of the Special Representative of the States which have ratified the Treaty charged with promoting universal accession to the Treaty;

36. appealing again to the Disarmament Conference for the immediate commencement and early conclusion of a non-discriminatory, universally applicable Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, without pre-conditions, and bearing in mind the special coordinator's report and the mandate included therein and, pending entry into force of the said Treaty, calling on all States to declare and uphold a moratorium on the production of fissile material for nuclear weapons or other nuclear explosive devices. The EU welcomes the action of those of the five nuclear-weapon States which have decreed the relevant moratorium;

37. calling on all States concerned to take appropriate practical measures in order to reduce the risk of accidental nuclear war;

38. pursuing consideration of the issue of security assurances to the non-nuclear-weapon States Parties to the NPT;

39. calling on nuclear-weapon States to reaffirm existing security assurances noted by the United Nations Security Council in Resolution 984(1995) and to sign and ratify the relevant protocols on nuclear-weapon-free zones, drawn up following the requisite consultations, recognising that Treaty-based security assurances are available to such zones;

40. stressing the need for general disarmament;

41. highlighting the importance of universal accession and implementation of the Biological and Toxins Weapons Convention (BTWC), the Chemical Weapons Convention (CWC) and the conventions, measures and initiatives contributing to conventional arms control;

42. calling for universal accession to and effective implementation of the Hague Code of Conduct against Ballistic Missile Proliferation;

43. working for the resolution of the problems of regional instability and insecurity and of the conflict situations which are often at the root of armament programmes.

Article 3

Action taken by the European Union for the purposes of Article 2 shall comprise:

(a) where appropriate, demarches by the Presidency, pursuant to Article 18 of the Treaty on European Union, with a view to promoting the universality of the NPT;

(b) demarches by the Presidency, pursuant to Article 18 of the Treaty on European Union, with regard to States Parties to the NPT, in order to urge their support for the objectives set out in Article 2 of this Common Position;

(c) the pursuit of agreement by Member States on draft proposals on substantive issues for submission on behalf of the European Union for consideration by States Parties to the NPT which may form the basis for decisions of the NPT 2005 Review Conference;

(d) Statements by the European Union delivered by the Presidency in the General Debate and in the debates in the three Main Committees.

Article 4

This Common Position shall take effect on the date of its adoption.

Article 5

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 25 April 2005.

For the Council
The President
J. ASSELBORN